
Exhibit “A”

HCDistrictclerk.com**HAZEN, ELIZABETH (INDIVIDUALLY AND AS
REPRESENTATI vs. ALLSTATE INSURANCE
COMPANY**

10/17/2016

Cause: 201661193 CDI: 7 Court: 334

DOCUMENTS

Number	Document	Post Jdgm	Date	Pgs
72203571	DOCKET CONTROL ORDER		10/06/2016	4
72161466	CITATION: ALLSTATE INSURANCE COMPANY :		10/04/2016	2
72151140	Defendant's Original Answer		10/03/2016	6
71994635	Civil Process Pick-Up Form		09/13/2016	1
71858546	Plaintiffs Original Petition And Request For Disclosure		09/12/2016	9
> 71858547	Civil Case Information Sheet		09/12/2016	1
> 71858548	Civil Process Request		09/12/2016	1

9/12/2016 3:27:01 PM
 Chris Daniel - District Clerk
 Harris County
 Envelope No: 12650869
 By: OVALLE, MONICA
 Filed: 9/12/2016 3:27:01 PM

CIVIL PROCESS REQUEST
2016-611937 Court: 334

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING
 FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: _____ CURRENT COURT: _____

TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): _____

FILE DATE OF MOTION: _____ Month/ Day/ Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: _____

ADDRESS: _____

AGENT, (if applicable): Matthew C. Merkle

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

<input type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____	Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL
<input type="checkbox"/> PUBLICATION: Type of Publication: _____	<input type="checkbox"/> COURTHOUSE DOOR, or <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____
<input type="checkbox"/> OTHER, explain _____	

2. NAME: _____

ADDRESS: _____

AGENT, (if applicable): _____

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): _____

SERVICE BY (check one):

<input type="checkbox"/> ATTORNEY PICK-UP	<input type="checkbox"/> CONSTABLE
<input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: _____	Phone: _____
<input type="checkbox"/> MAIL	<input type="checkbox"/> CERTIFIED MAIL
<input type="checkbox"/> PUBLICATION: Type of Publication: _____	<input type="checkbox"/> COURTHOUSE DOOR, or <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____
<input type="checkbox"/> OTHER, explain _____	

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Cynthia Huerta TEXAS BAR NO./ID NO. 24029402

MAILING ADDRESS: 3200 Travis, 3rd Floor, Houston, Texas 77006

PHONE NUMBER: 713 area code 524-3500 phone number FAX NUMBER: 877 area code 449-4510 fax number

EMAIL ADDRESS: chuerta@smslegal.com

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): 2016-61193 / Court: 334

STYLED

COURT (FOR CLERK USE ONLY)

9/12/2016 3:27:01 PM
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(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)
 A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name: <u>Cynthia Huerta</u>	Email: <u>chuerta@smslegal.com</u>	Plaintiff(s)/Petitioner(s): <u></u>	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Address: <u>3200 Travis, 3rd Floor</u>	Telephone: <u>713-524-3500</u>	Defendant(s)/Respondent(s): <u></u>	Additional Parties in Child Support Case: <u></u>
City/State/Zip: <u>Houston, Texas 77006</u>	Fax: <u>877-449-4510</u>	State Bar No: <u>24029402</u>	Custodial Parent: <u></u>
Non-Custodial Parent: <u></u>			
Presumed Father: <u></u>			
[Attach additional page as necessary to list all parties]			

2. Indicate case type, or identify the most important issue in the case (select only 1):

Civil		Family Law	
Contract	Injury or Damage	Real Property	Post-judgment Actions (non-Title IV-D)
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: 	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____	<input type="checkbox"/> Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children
Employment	Other Civil	Related to Criminal Matters	Title IV-D
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: 	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order
Tax	Probate & Mental Health		
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		
	<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____		

3. Indicate procedure or remedy, if applicable (may select more than 1):

<input type="checkbox"/> Appeal from Municipal or Justice Court	<input type="checkbox"/> Declaratory Judgment	<input type="checkbox"/> Prejudgment Remedy
<input type="checkbox"/> Arbitration-related	<input type="checkbox"/> Garnishment	<input type="checkbox"/> Protective Order
<input type="checkbox"/> Attachment	<input type="checkbox"/> Interpleader	<input type="checkbox"/> Receiver
<input type="checkbox"/> Bill of Review	<input type="checkbox"/> License	<input type="checkbox"/> Sequestration
<input type="checkbox"/> Certiorari	<input type="checkbox"/> Mandamus	<input type="checkbox"/> Temporary Restraining Order/Injunction
<input type="checkbox"/> Class Action	<input type="checkbox"/> Post-judgment	<input type="checkbox"/> Turnover
4. Indicate damages sought (do not select if it is a family law case):		
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000		

2016-61193 / Court: 334

CAUSE NO.

ELIZABETH HAZEN, INDIVIDUALLY § IN THE DISTRICT COURT OF
AND AS REPRESENTATIVE OF §
KENNETH HAZEN §
VS. § HARRIS COUNTY, TEXAS
ALLSTATE INSURANCE COMPANY §
§
§ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, ELIZABETH HAZEN, INDIVIDUALLY AND AS
REPRESENTATIVE OF KENNETH HAZEN hereinafter referred to as Plaintiff, and file this
Original Petition and Request for Disclosure complaining of ALLSTATE INSURANCE
COMPANY, hereinafter referred to as Defendant, and in support hereof alleges as follows:

I. DISCOVERY

Plaintiff requests discovery be conducted under Level 3 as set forth in Texas Rule of Civil
Procedure 190.4.

II. VENUE

Plaintiff, ELIZABETH HAZEN, is an individual residing in Lake City, Columbia
County, Florida (FLDL: #####050; SSN: ###-##-#479).

Defendant, ALLSTATE INSURANCE COMPANY, is an insurance company licensed to
do business in the State of Texas. This Defendant may be served with due process herein by
serving its registered agent Matthew C. Merkle, at 9289 Huntington Sq., Suite 200, North
Richland Hills, TX 76182-4314. **Please issue a citation for this defendant at this time.**

Venue is proper in Harris County because the incident made the basis of this suit
occurred in Harris County, Texas. The Court has personal jurisdiction over ALLSTATE

INSURANCE COMPANY because it is a domestic corporation. The amount in controversy exceeds the minimum requirements of this court.

III. FACTS

This lawsuit results from a theft and vandalism incident that occurred on or about September 24, 2014, in which Plaintiff's household furniture and personal belongings were stolen and vandalized. The Plaintiff was insured through ALLSTATE INSURANCE COMPANY for this loss. ALLSTATE opened a claim on or about October 1, 2014, and for almost two years failed to resolve Plaintiff's claims in breach of the insurance contract and in violation of the Texas Insurance Code. Further, ALLSTATE INSURANCE COMPANY intentionally and repeatedly misrepresented the policy requirements and policy provisions to Plaintiff, namely that Plaintiff must first recover from United Van Lines for her loss.

ALLSTATE INSURANCE COMPANY issued a policy of insurance, policy 8 29 085890 06/23, which provided for coverage of the Plaintiff's property that covered the dates of June 23, 2014, through June 23, 2015. On the date of the incident made the basis of this suit, ELIZABETH HAZEN was a covered person under the terms of the policy because she is the surviving spouse of Ken Hazen who was the named insured covered by the insurance policy. Plaintiff is therefore entitled to coverage afforded by the insurance policy. Plaintiff is also a "person" under the Texas Insurance Code with standing to bring claims under the Texas Insurance Code.

Plaintiff timely notified Defendant, ALLSTATE INSURANCE COMPANY of their claims. Despite receipt of Plaintiff's claim and Plaintiff providing Defendant with proof of damages that are covered under the policy, Defendant has refused to tender full appropriate payment for damages.

Plaintiff purchased a policy of insurance from Allstate or from Allstate's representatives. It was represented to Plaintiff that this policy of insurance was in full force and effect for the policy period, and that any and all claims made by the insured would be handled in a manner consistent with the guidelines set forth in the Texas Insurance Code.

Plaintiff has made claims for her damages under her ALLSTATE INSURANCE COMPANY Renters Policy to provide for losses sustained from theft and vandalism of her household furniture and personal belongings. Defendant, ALLSTATE INSURANCE COMPANY, has unreasonably and in bad faith failed to request information, failed to adequately investigate the claim, failed to respond to requests for information from the insured, failed to timely evaluate the claim, and failed to timely estimate the claim and enter a fair resolution.

To date, the handling of the claims for damage has resulted in significant problems for Plaintiff. Defendant assigned the claim and despite being given authority and instructions to inspect, adjust, and evaluate the claim, Defendant has again failed to timely estimate the claim and enter a fair settlement. This is unjust in light of Plaintiff's losses in the past and in the future.

IV. CAUSES OF ACTION

1. Breach of Contract

Plaintiff sues for coverage under her contract of insurance with ALLSTATE INSURANCE COMPANY. By failing to pay benefits under the policy of insurance, Defendant breached the contract of insurance that existed between it and Plaintiff. As a result, Plaintiff is entitled to recover actual damages, consequential damages and attorney's fees pursuant to §38.001 of the Texas Civil Practice & Remedies Code because of Allstate's breach of contract.

2. Violation of Texas Deceptive Trade Practices Act

Plaintiff asserts that the defendant engaged in false, misleading, deceptive acts and practices, as defined by the Texas Deceptive Trade Practices Act ("DTPA"), Tex. Bus. & Com. Code Ann §17.41 *et. seq.*, more specifically stated as follows:

§17.46(b)(5): representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has sponsorship, approval, status, affiliation, or connection which he does not;

§17.46(b)(7): representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model if they are of another;

§17.46(b)(12): representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve;

§17.50(a)(2): breach of express or implied warranties; and

§17.50(a)(3): that the acts or omissions complained of were unconscionable.

Plaintiff would further show that the ALLSTATE INSURANCE COMPANY's acts and practices, which were the producing cause of Plaintiff's damages, were committed knowingly and intentionally. ALLSTATE INSURANCE COMPANY's fraudulent and deceptive conduct and the resulting damage and loss to Plaintiff have necessitated Plaintiff's retention of the undersigned attorney. Pursuant to Tex. Bus. & Com. Code Ann. § 17.50(d), Plaintiff is entitled to recover attorney's fees that are reasonable and necessary for the preparation and trial of this cause as well as reasonable and necessary fees for appellate services expended in connection with this suit.

3. Breach of the Duty of Good Faith and Fair Dealing.

Prior to filing this action, Plaintiff notified ALLSTATE INSURANCE COMPANY of her claim under the Renters Policy and all conditions precedent to obtaining benefits had been

met. Plaintiff provided ALLSTATE INSURANCE COMPANY documentation and information reasonably necessary for the evaluation of her claim. Despite this, ALLSTATE INSURANCE COMPANY refused to pay the value of Plaintiff's claim.

Plaintiff would further show that ALLSTATE INSURANCE COMPANY breached the common law duty of good faith and fair dealing in the following respects:

- a. by denying payments on the full value of Plaintiff's claims when there was no reasonable basis for such denial; and
- b. by withholding payment of the claim when ALLSTATE INSURANCE COMPANY knew or should have known that there was no reasonable basis for doing so.

The evidence in this case establishes that ALLSTATE INSURANCE COMPANY breached their duty to act in good faith and fairly deal with Plaintiff in that ALLSTATE INSURANCE COMPANY has no reasonable basis for refusing to meet their obligations to pay under the Renters Policy. As a consequence, ALLSTATE INSURANCE COMPANY is liable for actual damages, punitive damages and other relief as pled for in this petition.

4. Exemplary Damages

The conduct of ALLSTATE INSURANCE COMPANY in failing to properly investigate, process, evaluate and engage in good faith settlement negotiations constitutes a conscious disregard of the rights of the Plaintiff. ALLSTATE INSURANCE COMPANY was both grossly negligent and recklessly indifferent to Plaintiff's rights in refusing to pay the underinsured limits on her claims. Indeed, ALLSTATE INSURANCE COMPANY's actions and behavior are such for which the law allows the imposition of exemplary damages under the common law theories of the violation of the duty of good faith and fair dealing, and as a result of the breach of ALLSTATE INSURANCE COMPANY's fiduciary duty to Plaintiff. Accordingly, Plaintiff seeks exemplary damages from ALLSTATE INSURANCE COMPANY.

5. Violations and Liability under the Texas Insurance Code

This suit is brought against ALLSTATE INSURANCE COMPANY, in part, pursuant to the Texas Insurance Code. Written notice has been provided in accordance with the Texas Insurance Code.

The evidence will show that ALLSTATE INSURANCE COMPANY participated in unfair claims settlement practices as articulated in TEX. INS. CODE § 541.060. Further, under the holding of Vail v. Texas Farm Bureau Mutual Insurance Company, 754 S.W.2d 129 (Tex. 1988), violations of the Texas Insurance Code and/or rules or regulations issued by The State Board of Insurance create liability under the DTPA, in addition to all penalties and liabilities articulated in the Texas Insurance Code. This liability includes but is not limited to ALLSTATE INSURANCE COMPANY's failure to attempt in good faith to effectuate a prompt fair and equitable settlement of the claim made by Plaintiff. Further, ALLSTATE INSURANCE COMPANY is liable for damages under the provisions of TEX. INS. CODE § 541.

Defendant ALLSTATE INSURANCE COMPANY breached its duty of good faith and fair dealing as provided by the Insurance Code when it unreasonably refused to compensate Plaintiff for her damages incurred as a result of the theft and vandalism. Specifically, ALLSTATE INSURANCE COMPANY failed to attempt in good faith to effectuate a prompt, fair and equitable settlement of a claim with respect to which the insurer's liability has become reasonably clear. Further, ALLSTATE INSURANCE COMPANY failed to provide promptly to Plaintiff a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's refusal to pay the claim. Plaintiff would further show that ALLSTATE INSURANCE COMPANY refused to pay the reasonable value of a claim without conducting a reasonable investigation with respect to the claim. Additionally, Defendant misrepresented the

policy requirements and policy provisions to Plaintiff, namely that our client must first recover from United Van Lines for her loss. Also, ALLSTATE INSURANCE COMPANY had actual awareness of the unfairness of their unreasonable refusal to compensate Plaintiff.

ALLSTATE INSURANCE COMPANY's actions and omissions in connection with its unfair settlement practices were a producing cause of Plaintiff's actual damages. Pursuant to the Insurance Code, Plaintiff is entitled to actual damages, treble damages, costs of court and attorneys fees.

6. Misrepresentation and Fraud

Plaintiff alleges that the representations made by Defendant ALLSTATE INSURANCE COMPANY concerning coverage under her Renters Policy coverage were misrepresentations and constitute fraud in that the representations were material, were false when made or were made recklessly and that Plaintiff relied on such representations and as a result suffered injuries and damages. Especially in misrepresenting the policy requirements and policy provisions to Plaintiff, namely that Plaintiff must first recover from United Van Lines for her loss.

V. DAMAGES

As a direct and proximate result of ALLSTATE INSURANCE COMPANY's breach of contract, breach of the duty of good faith and breach of fiduciary duty violations of the Texas Insurance Code and violations of the Deceptive Trade Practices Acts, Plaintiff suffered damages.

Plaintiff seeks to recover damages within the jurisdictional limits of this Court.

Plaintiff also seek damages for her injuries by way of pre-judgment and post-judgment interest payments for all damages he has suffered and that have accrued by the time of judgment.

In accordance with the Texas Rules of Civil Procedure Plaintiff individually seek monetary relief over \$200,000.00 but not more than \$1,000,000.00.

Plaintiff is entitled to the following:

1. Actual Damages

The damages suffered by Plaintiff include actual damages in the amount of the fair market value of Plaintiff's household furniture and personal belongings. In addition, ALLSTATE INSURANCE COMPANY's fraudulent and deceptive conduct and the resulting damage and loss to Plaintiff have necessitated Plaintiff's retention of the undersigned attorney.

2. Statutory Treble Damages

As a result of Defendant ALLSTATE INSURANCE COMPANY's actions and/or omissions, and/or the acts/omissions of its agents, Plaintiff is entitled to statutory damages as provided for in various statutes, including but not limited to the Texas Insurance Code and the Texas Deceptive Trade Practices Act.

3. Mental Anguish

As a result of Defendant ALLSTATE INSURANCE COMPANY's action and/or omissions, and/or the acts/omissions of its agents, Plaintiff has suffered, and is entitled to recover for, mental anguish.

4. Pain and Suffering

Plaintiff has incurred physical and mental distress suffered from their injuries.

5. Attorney's Fees

VI. REQUEST FOR DISCLOSURE

Plaintiff request that Defendant disclose the information or material described and asked in Rule 194.2 (a) - (l) of the Texas Rules of Civil Procedure.

VII. NOTICE

Plaintiff hereby give notice of intent to utilize items produced in discovery in the trial of this matter and the authenticity of such items is self-proven per the *Texas Rules of Civil Procedure 193.7*

VIII. JURY DEMAND

Plaintiff demands a trial by jury and has tendered the appropriate fee.

IX. PRAYER

WHEREFORE, Plaintiff request that Defendant be cited to appear and answer, and that, after trial, Plaintiff have judgment against Defendant for:

1. Actual damages suffered by the Plaintiff;
2. All damages recoverable pursuant to all statutes cited herein, including, but not limited to treble damages;
3. Reasonable attorney's fees;
4. Prejudgment interest as provided by law;
5. Post-judgment interest as provided by law from the date of judgment until paid; and
6. For such other and further relief, both general and special, at law or in equity, to which Plaintiff may show himself justly entitled.

Respectfully submitted,

SCHECHTER, McELWEE, SHAFFER & HARRIS, L.L.P.

/s/ Cynthia Huerta

CYNTHIA HUERTA
TBA # 24029402
3200 Travis, 3rd Floor
Houston, Texas 77006
PHONE (713) 524-3500
DIRECT FAX NO. (877) 449-4510
chuerta@smslegal.com
ATTORNEYS FOR PLAINTIFF



CHRIS DANIEL
HARRIS COUNTY DISTRICT CLERK

ENTERED
VERIFIED

A.S.

ATY _____

CIV

COURT 334

REQUESTING ATTORNEY/FIRM NOTIFICATION

ATTORNEY: Hillgray Cynthia PH: 7135243500

CIVIL PROCESS SERVER: Lone Star #17

PH: 713 779 1400

PERSON NOTIFIED SVC READY: _____
DATE: _____

Type of Service Document: CHR

Tracking Number 73287305

Type of Service Document: _____

Tracking Number _____

Process papers prepared by: **Monica Ovalle**

Date: 9/13/16

30 days waiting

10/13/16

Process papers released to:

(CONTACT NUMBER)

(SIGNATURE)

(PRINT NAME)

Process papers released by:

Shanice Richardson

(PRINT NAME)

Richardson

(SIGNATURE)

Date:

9-21

, 2016

Time:

9:30 AM / PM

RECODER'S MEMORANDUM
This instrument is of poor quality
at the time of imaging

NO. 2016-61193

ELIZABETH HAZEN, § IN THE DISTRICT COURT OF
INDIVIDUALLY AND AS §
REPRESENTATIVE OF KEN HAZEN § HARRIS COUNTY, TEXAS
VS. §
ALLSTATE INSURANCE COMPANY § 334TH JUDICIAL DISTRICT

DEFENDANT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Allstate Insurance Company, Defendant in the above styled and numbered cause of action, and in response to the complaints filed against it, would respectfully show unto this Honorable Court and Jury as follows:

GENERAL DENIAL

At this time Defendant asserts a general denial to Plaintiff's Original Petition and all amended and/or supplemental petitions, as authorized by Rule 92, Texas Rules of Civil Procedure, and respectfully requests the Court and jury to require Plaintiff to prove the claims, charges and allegations, by a preponderance of the evidence, as required by the Constitution and the laws of the State of Texas.

II.

FIRST AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by policy exclusions and/or limitations which are listed in the policy made the basis of this suit.

III.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because conditions precedent to Plaintiff's recovery have not occurred. For example, and without limitation, Plaintiff failed to provide proper written notice prior to suit as required by Section 541 of the Texas Insurance Code and by 17.50(a) of the Texas Business and Commerce Code (Texas DTPA).

IV.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because some or all of Plaintiff's claims are excluded by the applicable insurance policy.

V.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because the injuries, damages, and losses alleged in Plaintiff's pleadings, none being admitted, were proximately caused in whole or in part by the fault or negligence of Plaintiff or others. Accordingly, Plaintiff's claims are barred or must be reduced under the doctrine of contributory or comparative fault.

VI.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims for punitive damages are barred because such an award would violate Defendant's due process, equal protection, and other rights under the United States Constitution and the Constitution of the State of Texas.

VII.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff failed to allege conduct warranting imposition of exemplary or punitive damages under applicable state law.

VIII.

SEVENTH AFFIRMATIVE DEFENSE

Defendant asserts the limitations and restrictions on exemplary damages contained in Chapter 41 of the Texas Civil Practice and Remedies Code.

IX.

EIGTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to cooperate in the handling of her claim, as required by the policy.

X.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claim for punitive damages is barred because such an award would violate Defendant's due process, equal protection, and other rights under the United States Constitution and the Constitution of the State of Texas.

XI.

TENTH AFFIRMATIVE DEFENSE

Plaintiff failed to allege conduct warranting imposition of exemplary or punitive damages under applicable state law.

XII.

ELEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are subject to the proportionate responsibility provisions of Chapter 33 of the Texas Civil Practice and Remedies Code, including without limitation the requirement of § 33.003 thereof that the trier of fact determine the relative responsibility of each claimant, defendant, and responsible third party that may be joined in this suit.

XIII.

TWELTH AFFIRMATIVE DEFENSE

This Defendant did not issue a policy of insurance which would cover Plaintiff's alleged damages.

XIV.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant hereby gives notice that it intends to rely upon such other defenses as may become available or apparent during the course of discovery and thus reserves its right to amend this answer.

XV.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendant asserts the limitations and restrictions contained in Chapter 41 of the Texas Civil Practice and Remedies Code.

COMES NOW, Allstate Insurance Company, Defendant and formally requests a jury trial pursuant to Rule 216 of the Texas Rules of Civil Procedure and tenders the amount of \$40.00 as jury fee.

WHEREFORE, PREMISES CONSIDERED, Defendant, Allstate Insurance Company, prays that the Plaintiff recovers nothing of and from the Defendant by reason of this suit, that Defendant be discharged without delay, with costs of court, and for such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled, and for which Defendant will in duty bound, forever pray.

Respectfully submitted,

HOPE & CAUSEY, P. C.

John M. Causey

John M. Causey
State Bar No. 04019100
P. O. Box 3188
Conroe, Texas 77305-3188
(936) 441-4673 - Metro
(936) 441-4674 - Facsimile
hcdocket@hope-causey.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

Pursuant to Rules 21. and 21a. of the Texas Rules of Civil Procedure, I hereby certify that the original of Defendant's Original Answer has been filed with the clerk of the court in writing, and a true and correct copy of Defendant's Original Answer has been delivered to all interested parties on October 3, 2016, correctly addressed to:

Cynthia Huerta
Schechter McElwee, Shaffer & Harris, L.L.P.
3200 Travis, 3rd Floor
Houston, TX 77006

/s/ John M. Causey

John M. Causey

10/4/2016 9:44:31 AM

Chris Daniel - District Clerk Harris County

Envelope No. 13042545

By: DANIELLE JIMENEZ

Filed: 10/4/2016 9:44:31 AM

CAUSE NO. 201661193

RECEIPT NO.

0.00

CIV

TR # 73287305

PLAINTIFF: HAZEN, ELIZABETH (INDIVIDUALLY AND AS REPRESENTATI
vs.
DEFENDANT: ALLSTATE INSURANCE COMPANY

In The 334th
Judicial District Court
of Harris County, Texas
334TH DISTRICT COURT
Houston, TX

CITATION

THE STATE OF TEXAS
County of Harris

TO: ALLSTATE INSURANCE COMPANY BY SERVING ITS REGISTERED AGENT MATTHEW C
MERKLE
9289 HUNTINGTON SQ SUITE 200 NORTH RICHLAND HILLS TX 76182 - 4314
Attached is a copy of PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

This instrument was filed on the 12th day of September, 2016, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED, You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING:

This citation was issued on 13th day of September, 2016, under my hand and seal of said Court.

Issued at request of:
HUERTA, CYNTHIA
3200 TRAVIS ST 3RD FL
HOUSTON, TX 77006
Tel: (713) 524-3500
Bar No.: 24029402



CHRIS DANIEL, District Clerk
Harris County, Texas
201 Caroline, Houston, Texas 77002
(P.O. Box 4651, Houston, Texas 77210)

Generated By: OVALLE, MONICA K7U//10482451

OFFICER/AUTHORIZED PERSON RETURN

Came to hand at _____ o'clock _____.M., on the _____ day of _____, _____.

Executed at (address) _____ in _____

County at _____ o'clock _____.M., on the _____ day of _____,

_____, by delivering to _____ defendant, in person, a

true copy of this Citation together with the accompanying _____ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery.

To certify which I affix my hand officially this _____ day of _____, _____.

FEE: \$ 115

_____ of _____ County, Texas

By _____

Affiant

Deputy

On this day, _____, known to me to be the person whose signature appears on the foregoing return, personally appeared. After being by me duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return.

SWORN TO AND SUBSCRIBED BEFORE ME, on this _____ day of _____, _____.

Notary Public

CAUSE NO. 2016-61193

ELIZABETH HAZEN, INDIVIDUALLY AND AS
REPRESENTATIVE OF KENNETH HAZEN
Plaintiff,
VS.

ALLSTATE INSURANCE COMPANY
Defendant.

§
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§
§
§
§

IN THE COURT OF
HARRIS COUNTY, TEXAS
334TH JUDICIAL DISTRICT

AFFIDAVIT OF SERVICE

On this day personally appeared Mitchell Draeger who, being by me duly sworn, deposed and said:

"The following came to hand on Sep 23, 2016, 4:35 pm,

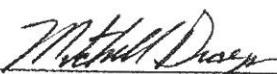
CITATION, PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE,

and was executed at 9289 Huntington Sq. Suite 200, North Richland Hills TX 76182 within the county of Tarrant at 12:25 PM on September 26, 2016 by delivering a true copy to the within named

ALLSTATE INSURANCE COMPANY BY DELIVERING TO ITS REGISTERED AGENT MATTHEW C MERKLE

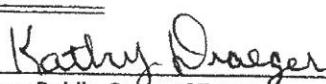
in person, having first endorsed the date of delivery on same.

I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I am familiar with the Texas Rules of Civil Procedure as they apply to service of Process. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I have personal knowledge of the facts stated herein and they are true and correct."


Print Name: Mitchell Draeger
SCH#: 7995 Exp: 12-31-2016

BEFORE ME, a Notary Public, on this day personally appeared Mitchell Draeger, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are within his or her personal knowledge and are true and correct.

SUBSCRIBED AND SWORN TO ME ON 9-27-2016


Notary Public, State of Texas



Case No. 201661193

HAZEN, ELIZABETH (INDIVIDUALLY
vs.
ALLSTATE INSURANCE COMPANY

DCORX
IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
334th JUDICIAL DISTRICT

DOCKET CONTROL ORDER

The following docket control order shall apply to this case unless modified by the court. If no date is given below, the item is governed by the Texas Rules of Civil Procedure.

1. **05/24/17 JOINDER.** All parties must be added and served, whether by amendment or ~~third party practice, by this date. THE PARTY CAUSING THE JOINDER SHALL PROVIDE A COPY OF THIS DOCKET CONTROL ORDER AT THE TIME OF SERVICE.~~
2. **EXPERT WITNESS DESIGNATION.** Expert witness designations are required and must be served by the following dates. The designation must include the information listed in Rule 194.2(f). Failure to timely respond will be governed by Rule 193.6.
(a) **06/23/17**
(b) **07/24/17** Experts for parties seeking affirmative relief.
All other experts.
3. **STATUS CONFERENCE.** Parties shall be prepared to discuss all aspects of the case, including ADR, with the court on this date. **TIME:**
Failure to appear will be grounds for dismissal for want of prosecution.
4. **DISCOVERY LIMITATIONS.** The discovery limitations of Rule 190.2, if applicable, or otherwise of Rule 190.3 apply unless changed ~~below~~.
(a) Total hours per side for oral depositions.
(b) Number of interrogatories that may be served by each party on any other party.
5. **ALTERNATIVE DISPUTE RESOLUTION.**
(a) By this date the parties must either (1) file an agreement for ADR stating the form of ADR requested and the name of an agreed mediator, if applicable; or (2) set an objection to ADR. If no agreement or objection is filed, the court may sign an ADR order.
(b) **11/06/17** ADR conducted pursuant to the agreement of the parties must be completed by this date.
6. **DISCOVERY PERIOD ENDS.** All discovery must be conducted before the end of the discovery period. Parties seeking discovery must serve requests sufficiently far in advance of the end of the discovery period that the deadline for responding will be within the discovery period. Counsel may conduct discovery beyond this deadline by agreement. Incomplete discovery will not delay the trial.
7. **DISPOSITIVE MOTIONS AND PLEAS.** Must be heard by oral hearing or submission.
(a)
(b) **09/22/17** If subject to an interlocutory appeal, dispositive motions or pleas must be heard by this date.
(c) Summary judgment motions not subject to an interlocutory appeal must be heard by this date. Rule 166a(i) motions may not be heard before this date.
8. **09/22/17 CHALLENGES TO EXPERT TESTIMONY.** All motions to exclude expert testimony and evidentiary challenges to expert testimony must be filed by this date, unless extended by ~~leave of court~~.
9. **10/20/17 PLEADINGS.** All amendments and supplements must be filed by this date. This order does not preclude prompt filing of pleadings directly responsive to any timely filed pleadings.
10. Parties shall be prepared to discuss all aspects of trial with the court on this date.
TIME:
Failure to appear will be grounds for dismissal for want of prosecution.
11. **11/20/17 TRIAL.** If not assigned by the second Friday following this date, the case will be reset.

SIGNED



JOHN MICHAEL CAUSEY
PO BOX 3188
CONROE TX 77305-3188

THE TRIAL DATE LISTED IN ITEM 11 ON THE FRONT OF THIS ORDER IS THE DATE YOUR TWO-WEEK DOCKET BEGINS. YOU WILL BE CONTACTED BY PHONE BY COURT PERSONNEL WITH AN EXACT DATE AND TIME TO APPEAR ONCE THE CASE IS ASSIGNED TO TRIAL.

FOR ADDITIONAL INFORMATION, COURT PROCEDURES AND A COPY OF THE STANDING ORDER IN LIMINE GOVERNING ALL JURY CASES, PLEASE REFER TO OUR WEBSITE AT WWW.JUSTEX.NET

Unofficial Copy Office of Chris Daniel District Clerk

Case No. 201661193

HAZEN, ELIZABETH (INDIVIDUALLY
vs.
ALLSTATE INSURANCE COMPANY

DCORX
IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
334th JUDICIAL DISTRICT

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SIGNED

██

CYNTHIA HUERTA
3200 TRAVIS ST FL 3
HOUSTON TX 77006-3652

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24029402

GRANT DORFMAN
Judge, 334TH DISTRICT COURT
Date Generated 10/05/2016

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